[*Note.*—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—ANNOUNCEMENTS.

(1) PANEL OF CHAIRMEN.

MR. SPEAKER : Under rule 14 (1) of the Madras Legislative Assembly Rules, I hereby nominate the following Members to be the Panel of Chairmen :—

(1) Sri S. Ranganatha Mudaliar.

(2) Srimathi P. K. R. Lakshmikantham.

(3) Sri S. M. Annamalai.

(4) Sri K. Ramachandran.

(5) Sri A. Vedarathnam.

(6) Sri K. Sattanatha Karayalar.

III. —PRIVILEGE MATTER *re.* CERTAIN OBSERVATION OF THE HIGH COURT OF MADRAS ABOUT THE LEADER OF THE HOUSE, IN A WRIT PETITION.

Privilege Matter, Motion under rule 55 (1) *and Adjournment motion.*

MR. SPEAKER : I have received three notices, (1) Privilege matter, (2) Motion under rule 55 (1) of the Assembly Rules and (3) Motion for the adjournment of the House to discuss a particular matter.

Now, I have to decide the priority with reference to the consideration of these matters. I shall first take up the Privilege matter, because it affects the dignity of the House. Next, I shall take up the Motion under rule 55 (1) expressing disapproval of the policy of the Government as the very existence of the Government depends on that Motion and if it fails, I shall take up the Adjournment Motion. The Privilege matter is given notice of by hon. Member Sri S. Lazar. I now call upon the hon. Member to raise the matter.

SRI S. LAZAR : Mr. Speaker, in the course of the order pronounced on 26th August 1960 in Writ Petition No. 796 of 1960 on the file of the High Court of Judicature at Madras, strong observations have been made affecting the conduct, character, prestige and privilege of a Member and Leader of this House, and powers which essentially belong to the Legislature have been assumed by the High Court thereby affecting the powers and privileges of this House.

In our Constitution, there is a differentiation of functions between the Executive, Legislature and Judiciary and no organ can constitutionally assume the powers that essentially belong to another organ. The powers of control and the privileges, as between these three organs *inter se*, have been laid down under the various Articles of the Constitution.

It is conceded in the course of the Order that the corrective against the dispensation of Governmental patronage, if any, must be by those ni administrative or operational control; and therefore,

Sir, under our parliamentary system of Government, it is this House which controls the actions of the Ministers by means of the various parliamentary methods of control. As rightly observed towards the end of the order, the jurisdiction of the Courts is not the role of a sentinel on the *qui vive* to guard against the vagaries of the State Executive. If I may add, Sir, the role of the sentinel can be played only by the Legislature as amongst the three organs of Government.

There are several passages in the order wherein the Court has tried to assume operational control over the Executive and played the role of a sentinel. These being within the competence of the Legislature, the powers and privileges of this House have been infringed.

SRI M. P. SUBRAMANIAM : Sir, on a point of order . . .

MR. SPEAKER : Let the hon. Member conclude his speech.

SRI M. P. SUBRAMANIAM : Sir, I rise on a point of order. The hon. Member is discussing . . .

MR. SPEAKER : I rule the point out of order. The hon. Member has to state his case. Let the hon. Member continue his speech.

SRI S. LAZAR : Sir, the Judiciary organ has been empowered with certain privileges under Article 211, the Legislature under Article 194 and the Executive under Article 163 (3) of the Constitution. This House has been jealously guarding the privileges of the Judiciary under Article 211 of the Constitution. The Legislature and the Executive have every right to expect the Judiciary not to encroach upon their privileges.

The High Court has passed stringent remarks against Sri C. Subramaniam for not filing an affidavit against the spirit of Article 163 (3) of the Constitution and his Oath of Secrecy. It finds all the relevant issues in favour of the Government but passes a series of strictures against the Leader of this House and the Government. Instead of restricting its consideration and findings to the legality of the appointment of the Government Pleader, the Court, in its early portion of the order, has gone into the motive and purpose supposed to have constituted the background for the order of appointment. The Court has thus usurped the powers and privileges of this House.

For smooth functioning of democracy, there must be mutual respect and regard for the respective privileges of the three organs of Government.

I therefore submit that in the order referred to above, there has been a breach of privilege of this House and the Leader of this House and that it is a fit case for being referred to the Committee of Privileges.

5th September 1960]

MR. SPEAKER : Before giving a ruling on such matters, I have been following the procedure of consulting the Leaders of Parties and the Leader of the House and getting their views. I shall follow the same procedure in this instance also. I shall get the views of the Leaders of Parties and the Leader of the House on the issue raised by the hon. Member Sri Lazar and thereafter give my ruling. I would like to know when it will be possible for the Leaders of Parties to express their views.

THE HON. SRI C. SUBRAMANIAM : Sir, this is a rather interesting and complicated question. Personally, I have not studied the various aspects of the question. Therefore, I suggest that we may take up this issue either tomorrow or the day after tomorrow. Perhaps, we may fix the date in the meeting of the Business Advisory Committee which you have been pleased to call to-day.

MR. SPEAKER : All right. I think that is the desire of the House also.

SRI M. KALYANASUNDARAM : Yes, Sir.

MR. SPEAKER : Then, I shall announce later when the matter will be taken up, i.e., whether tomorrow or the day after tomorrow. 10-30 a.m.

IV—MOTION DISAPPROVING THE POLICY OF THE MINISTRY IN THE APPOINTMENT OF GOVERNMENT PLEADER.

MR. SPEAKER : I have received, under rule 55 (1) (*b*) of the Assembly Rules, notice of a motion from the hon. Member, Sri P. S. Chinnadurai. The motion reads as follows :—

" This House disapproves the policy adopted by the Ministry in the matter of recent appointment of a Government Pleader in the High Court."

The hon. Member Sri T. S. Ramaswami, has also given notice of a similar motion.

Rule 55 (1) reads as follows :—

" A motion expressing want of confidence in the Ministry or a motion disapproving the policy of the Ministry in a particular respect may be made with the consent of the Speaker and subject to the following restrictions, namely :—

(*a*) leave to make the motion must be asked for after questions and before the further business set down in the list of business for the day is entered upon. . ."

This has been done.

" (*b*) the member asking for leave must, before the commencement of the sitting of the day, leave with the Secretary a written notice of the motion which he proposes to make."

This has been done.